

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DICK M. GREENFIELD,)	
)	
Claimant,)	IC 03-517328
)	
v.)	
)	
MOO BREW, INC.,)	
)	
Employer,)	
)	ORDER
)	
STATE INSURANCE FUND,)	FILED
)	December 9, 2005
Surety,)	
)	
STATE OF IDAHO, INDUSTRIAL)	
SPECIAL INDEMNITY FUND,)	
)	
Defendants.)	
)	

Pursuant to Idaho Code § 72-717, Referee Alan Taylor submitted the record in the above-entitled matter, together with his proposed findings of fact and conclusions of law to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendations of the Referee. The Commission concurs with these recommendations. Therefore, the Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusions of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED That:

1. Claimant has proven he suffers permanent partial impairment (PPI) of 23% of the whole person, including 2.3% due to his August 2003 industrial accident and 20.7% due to his preexisting spinal condition.

2. Claimant has failed to prove he is 100% disabled, however Claimant has proven that he is an odd-lot worker, totally and permanently disabled, under the Lethrud test.

3. Defendant ISIF is liable to Claimant under Idaho Code § 72-332.

4. Apportionment under the formula set forth in Carey v. Clearwater County Road Department, 107 Idaho 109, 686 P.2d 54 (1984), is appropriate as follows: Employer and Surety are liable for payment of 50 weeks of statutory benefits to Claimant, and ISIF is responsible for payment of full statutory benefits commencing 50 weeks after October 20, 2003, the date Claimant was medically stable.

5. Defendants Employer and Surety are entitled to credit for all PPI benefits previously paid Claimant.

6. Apportionment pursuant to Idaho Code § 72-406 is moot.

Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all issues adjudicated.

DATED this 9th day of December, 2005.

INDUSTRIAL COMMISSION

/s/
Thomas E. Limbaugh, Chairman

/s/
James F. Kile, Commissioner

/s/
R. D. Maynard, Commissioner

ATTEST:

/s/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of December, 2005, a true and correct copy of the foregoing **Order** was served by regular United States Mail upon each of the following persons:

BRADFORD S EIDAM
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kr

/s/_____